

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-135-W/S - ORDER NO. 93-675 ✓
JULY 28, 1993

IN RE: Application of Point South Water and) ORDER
Sewer, Inc. for Approval of an Increase) DENYING
in Rates & Charges for Water and Sewer) PETITION FOR
Service Provided to its Customers in) REHEARING
its Service Area.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing of our Order No. 93-485 in this Docket filed by the Point South Merchants Association (the Association), an Intervenor in this case. For the reasons described in the following Paragraphs, this Petition must be denied.

First, the Point South Merchants Association alleges that Order No. 93-485 fails to set forth salient findings of fact and conclusions of law as required by the Administrative Procedures Act (APA) and other laws of this State. The Association further states that the findings do not set forth the positions of the Association. This ground is without merit. An examination of Order No. 93-485 reveals both findings of fact and conclusions of law, which are delineated as such. Further, the Commission did not find it necessary in said findings of fact and conclusions of law to discuss the Petitioner's positions in detail nor is such a

discussion required. Our Supreme Court has held that the Public Service Commission sits as a trier of facts akin to a jury of experts. Hamm v. South Carolina Public Service Commission, 422 S.E. 2d 110 (S.C., 1992). The credibility of testimony is a matter for the finder of fact to judge. South Carolina Department of Social Services v. Forrester, 282 S.C. 512, 320 S.E. 2d 39 (S.C. App., 1984). Determining the weight to be given to testimony is a function for the finder of fact. Davenport v. Walker, 280 S.C. 588, 313 S.E. 2d 354 (S.C. App., 1984). In short, the Commission found the testimony of the Company and the Commission Staff to be more credible than that of the Association, and was therefore, within its legal rights to cite only that testimony in support of its positions.

Second, the Association erroneously states that the Commission utilized an operating margin approach which inappropriately included a \$30,000 loan expenditure for non-utility assets. This is erroneous, in that Order No. 93-485 adopted the Staff adjustments proposed by the Commission Staff. See, Order No. 93-485 at 7. Commission Staff Accountant Joe Maready eliminated \$28,576 for lights which had not been installed. Maready opined that the lights were not used and useful in rendering utility service. Therefore, the Commission excluded the \$28,576 when it determined the appropriate operating margin.

Third, the Association stated that the Commission erred in finding that an operating margin of 8.39% is fair and reasonable,

the error being that the Commission's calculation of the expenditures included the \$30,000 as mentioned in the prior paragraph. Again, for the reasons stated before, this is erroneous.

Fourth, the Association states that the Commission improperly calculated all of the utility's interest on loans as an expense included in the formula for determining the allowable operating margin. Once again the Commission adopted the Staff's adjustment in this regard. The testimony of Joe Maready noted that Staff annualized the interest on two notes owed by the utility at a prime rate of 6% plus 1%. The prime rate was 6% at the time of Staff's report for an adjustment of \$9,691. Further, Hearing Exhibit 1, Accounting Exhibit E, showed a detailed calculation of interest expense for the combined operations of the utility. The Commission believes that it properly included appropriate interest expense in the formula for determining the allowable operating margin.

Fifth, the Association complains that the Commission has not fairly balanced the need for the rate increase by the Applicant against the impact on the Intervenor since the increase upon one customer for one month was 42%. The Commission disagrees. As stated in Order No. 93-485 at 10, the Commission examined the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service. The Commission was also mindful of the standard delineated in Bluefield Waterworks and Improvement Company v. Public Service

Commission of West Virginia, 262 U.S. 679 (1923). At times unfortunate increases may be assigned to individual customers, but the Commission believes that it must use its discretion in appropriately balancing the interest of the company, and the interest of the consumer in all rate cases, therefore, the Commission believes that its holding in this case was within the Commission's discretion, and therefore, affirms said decision.

Sixth, the Intervenor next states that the Order of the Commission allows the Applicant to charge a management fee that is grossly disproportionate to the services rendered to the utility. The Transcript of Record in this case supports the position of the Commission to allow the utility to charge this fee. According to the Transcript of Record at 15, Claude Dinkins, through his separate company, charges Point South \$9,360 a year as a management fee. At 16, Dinkins outlines certain activities that he carries out to earn this fee. Dinkins states that he goes to the plant daily, which is a 25 mile distance from his home. Dinkins also does paperwork which must be filed with the Department of Health and Environmental Control (DHEC), Dinkins must make the telephone calls accordingly, Dinkins must prepare documents for DHEC federal regulations and comply with all Federal and State guidelines. Tr. at 16.

The Commission believes that the Company has shown proper evidentiary support for the management fee disputed by the Association, and therefore, affirms its prior holding of the granting of this fee.

Lastly, the Association alleges that the Order establishes a rate structure that does not fairly distribute the allowed increase across the range of customers, based on the cost of service to the various categories of customers. The Commission is somewhat puzzled by this allegation, since the only evidence on this point was furnished by the Company and the Commission Staff. The Association furnished no evidence whatsoever on this point. It is the position of the Commission that the rate structure, as approved by this Commission, fairly distributes the increase across the range of customers, based on the cost of service. The Order summarized and examined the fundamental criteria of a sound rate structure, and the Commission believes it properly applied those criteria. Such a matter is purely within the discretion of the Commission when supported by the evidence presented in the absence of any evidence to the contrary.

For the above reasons, the Petition for Rehearing on Order No. 93-485 must be denied.


IT IS THEREFORE ORDERED THAT:

1. The Petition for Rehearing on Order No. 93-485 is hereby denied.

DOCKET NO. 92-135-W/S - ORDER NO. 93-675
JULY 28, 1993
PAGE 6

2. That this Order shall remain in full force and effect
until further Order of the Commission.

BY ORDER OF THE COMMISSION:


VICE Chairman

ATTEST:


Deputy Executive Director

(SEAL)